

REMARKS

The Official Action mailed September 9, 2008, has been received and its contents carefully noted. This response is filed within three months of the mailing date of the Official Action and therefore is believed to be timely without extension of time. Accordingly, the Applicant respectfully submits that this response is being timely filed.

The Applicant notes the partial consideration of the Information Disclosure Statement filed on June 23, 2008. Specifically, it appears that the Examiner inadvertently overlooked the citation of the "International Search Report (Application No. PCT/JP2005/020663) dated February 21, 2006" and the "Written Opinion (Application No. PCT/JP2005/020663) dated February 21, 2006." A copy of the partially considered Form PTO-1449 is available in the Image File Wrapper under the heading, "List of References cited by applicant and considered by examiner" and has a mail room date of "09-09-2008." The Applicant respectfully requests that the Examiner provide an initialed copy of the Form PTO-1449 evidencing consideration of the above-referenced International Search Report and Written Opinion.

A further Information Disclosure Statement is submitted herewith and consideration of this Information Disclosure Statement is respectfully requested.

Claims 1-26 were pending in the present application prior to the above amendment. Independent claims 1, 2, 5, 14, 15 and 18 have been amended to better recite the features of the present invention, and new dependent claims 27-32 have been added to recite additional protection to which the Applicant is entitled. The Applicant notes with appreciation the indication of the allowability of dependent claims 3, 4, 8, 9, 16, 17, 21 and 22 (Box 7, Office Action Summary, page 9, Paper No. 20080901). Accordingly, claims 1-32 are now pending in the present application, of which claims 1, 2, 5, 14, 15 and 18 are independent. For the reasons set forth in detail below, all claims are believed to be in condition for allowance. Favorable reconsideration is requested.

At this opportunity, the Applicant has amended the claims to correct minor typographical and grammatical informalities. Specifically, in claims 1, 2, 5, 14, 15 and

18, the claims have been amended as follows: "... a second substance ~~of which~~ having an electron transporting property [[is]] higher than a hole transporting property" Also, claims 5 and 18 have been amended to change "50 %" to "50%." Further, claims 5 and 18 have been amended to change "thicknesses of the first electrode and the second electrode" to "thicknesses of the first layer and the second layer," which is consistent with and supported in the present specification, for example, by page 4, lines 8-9.

The Official Action provisionally rejects claims 1, 2, 5-7, 10-15, 18-20 and 23-26 under the doctrine of obviousness-type double patenting over claim 25 of U.S. Publication No. 2005/0225236 to Nomura, either alone or in combination with U.S. Publication No. 2003/0189401 to Kido. It is noted that Nomura '236 is a pre-grant publication of U.S. Patent Application Serial No. 11/087,717, which issued as U.S. Patent No. 7,015,324 to Nomura on March 21, 2006. The Applicant respectfully submits that the independent claims of the subject application are patentably distinct from the claims of the Nomura '324 patent either alone or in combination with Kido.

As stated in MPEP § 804, under the heading "Obviousness-Type," in order to form an obviousness-type double patenting rejection, a claim in the present application must define an invention that is merely an obvious variation of an invention claimed in the prior art patent, and the claimed subject matter must not be patentably distinct from the subject matter claimed in a commonly owned patent. Also, the specification and drawings of the patent principally underlying the double patenting rejection are not considered prior art.


The Applicant respectfully traverses the obviousness-type double patenting rejection. The claims of the Nomura '324 patent are directed to a "triazene derivative." Although the specification of the Nomura '324 patent discloses a luminescent material in Figure 9, the claims of Nomura '324 do not teach or suggest the structures recited in the present claims.

It is respectfully submitted that the claims of the present application are not a timewise extension of the invention as claimed in the Nomura '324 patent, either alone or in combination with Kido. Reconsideration and withdrawal of the obviousness-type double patenting rejections are requested.

New dependent claims 27-32 have been added to recite additional protection to which the Applicant is entitled. The features of claims 27-32 are supported in the present specification, for example, by Figures 8A-8C. For the reasons stated above, the Applicant respectfully submits that new claims 27-32 are in condition for allowance.

Should the Examiner believe that anything further would be desirable to place this application in better condition for allowance, the Examiner is invited to contact the undersigned at the telephone number listed below.

Respectfully submitted,



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